

E-FILED 11-02-2009

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SHARON LORRAINE,

No. C09-03322 HRL

Plaintiff,
v.

**ORDER RE PLAINTIFF'S "NOTICE OF
REMOVAL"**

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

[Re: Docket No. 4]

Defendant.
_____ /

Several weeks after the instant action was filed, the court received a request from plaintiff stating, "This letter is my notice of removal of my Case No. C09-03322HRL." (Docket No. 4). It is not entirely clear what plaintiff intends. Inasmuch as she filed her complaint in this court, she cannot be referring to removal under 28 U.S.C. § 1441, which governs the removal of cases filed in a state court to federal court. Instead, it appears that her letter is meant to be a notice of voluntary dismissal. Plaintiff is within her rights to do so. See Fed.R.Civ.P. 41(a)(1). This court believes that plaintiff would like to voluntarily dismiss this lawsuit without prejudice – i.e., all scheduled appearances and hearings will be vacated, the court's file will be closed, and the case will be terminated.

However, if this is not what plaintiff intends, then **no later than November 13, 2009**, she shall so advise this court in writing. If the court does not hear from plaintiff by the November 13, 2009 deadline, (a) it will assume that plaintiff's silence means that she intends to

1 have this case dismissed and (b) the lawsuit will be terminated and the file closed.

2 SO ORDERED.

3 Dated: November 2, 2009

4 
5 _____
6 HOWARD R. LLOYD
7 UNITED STATES MAGISTRATE JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States District Court
For the Northern District of California

1 5:09-cv-3322-HRL Notice mailed to:

2 Sharon Lorraine
3 4623 Corona Drive
4 San Jose, CA 95129

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28